

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United States of America,)	CRIMINAL NO. 3:10-524
)	
v.)	OPINION and ORDER
)	
Marcus Dewayne Jones,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant's *pro se* motion to "revisit 2-level enhancement for obstruction of justice." ECF No. 155. Defendant argues a clear error of law was committed when an enhancement for obstruction of justice was applied to his sentence. *Id.*

Defendant filed a prior motion for relief pursuant to § 2255 on February 7, 2013, in which he challenged (in part) the obstruction enhancement. ECF No. 105. After full briefing, this court granted a motion for summary judgment by the Government and dismissed Defendant's § 2255 motion, including the grounds related to obstruction. ECF No. 122. The obstruction issue had been raised on appeal and rejected by the Court of Appeals. *United States v. Jones*, 466 F. App'x 180, 181 n.* (4th Cir. 2012).

The current motion is a second or successive motion for relief under 28 U.S.C. § 2255. Defendant's failure to seek permission to file a second or successive motion in the appropriate court of appeals prior to the filing of the motion in the district court is fatal to the outcome of any action on the motion in this court. Prior to filing a second or successive motion under § 2255, Defendant must obtain certification by a panel of the Fourth Circuit Court of Appeals allowing him to file a second or successive motion. As provided in 28 U.S.C. § 2244, "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall

move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). *See also* Rule 9 of the Rules Governing 2255 Proceedings (“Before presenting a second or successive motion, the moving party must obtain an order from the appropriate court of appeals authorizing the district court to consider the motion . . .”). Defendant has not received an order from the Fourth Circuit authorizing filing of a successive § 2255.

The requirement of petitioning a court of appeals (in this instance, the Fourth Circuit) for permission to file a second or successive § 2255 motion is jurisdictional. Therefore, Defendant’s failure to receive permission from the Fourth Circuit Court of Appeals prior to filing this § 2255 motion is fatal to any action in this court. This motion is dismissed as this court is without jurisdiction to consider it.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
September 9, 2019

